

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1277-01  
Bill No.: HB 472  
Subject: Political Subdivisions: Utilities, Right-of-way  
Type: Original  
Date: February 21, 2001

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**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government*</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(\$Unknown)</b>

\* Fiscal impact is estimated to exceed \$1,000,000 annually.

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials of the **Department of Economic Development-Public Service Commission, and Office of Public Counsel**, stated there would be no fiscal impact to their department.

Officials of the **Missouri Department of Transportation** stated they are not included in the definition of “political subdivision”, therefore, this proposal would not apply to their department.

Officials of the **Missouri Department of Conservation** stated this proposal would not have fiscal impact on MDC funds.

Officials of the **Office of Administration- Division of Design and Construction** stated their would be no fiscal impact to their division.

Officials of the **Department of Natural Resources** stated that their department manages the state park system and are responsible for maintaining certain roads within the state park system. Depending upon the definition/intent of the term public right-of-way, the department may be fiscally impacted.

Officials of the **City of Kansas City** stated that the major impact would be the termination of current franchise fees in 2004. Officials stated this proposal would deprive the City of fees assessed to maintain and repair hundreds of miles of streets used by utilities, telecommunications companies, and cable television operators. Officials stated costs for street repairs would be significant. Arbitration costs would be an additional expense of managing the right-of-way. Officials stated that because franchise fees could not be renewed, there would be no ability to assess the federally authorized 5% franchise fee against cable operators. Officials stated that although the franchise fee would be collected through 2004, when the franchise expires, the City would lose, in current revenue, about \$3.7 million annually from a single operator. The City would also lose support for government access cable television operations of the City is received from each cable operator. The equipment would not be allowed to be required under State law, although federal law allows this requirement. Officials assume impact cannot be estimated, but assume it would be several million dollars annually. Fiscal impact is unknown

In response to identical legislation the officials of the **City of St.Louis** stated this proposal places new requirements and procedures on municipalities. Officials stated there would be arbitration cost of \$5,000 per incident. There would be an increase in overtime cost to comply with the 10 day permit approval deadline. Officials estimate costs at \$10,000 annually.

ASSUMPTION (continued)

Officials stated there would be a loss of income from franchise tax revenues from cable operators of approximately \$1.45 million annually, and there would be an annual loss of income of approximately \$13.3 million from Incumbent Local Exchange Carriers and Competitive Local Exchange Carriers. Officials stated the City would lose in-kind services, which, have an estimated annual value of \$891,666. Officials stated that these costs are estimates and the actual fiscal impact is unknown.

Officials of the **City of Springfield** assume this proposal would have fiscal impact to City funds. Officials stated they would lose utility franchise fee payments as no franchise would be allowed to require rental for rights-of-way use over and above the right-of-way permit fee as defined by this proposal. City Officials estimate the loss of revenue from telecommunications franchise fee at \$7.4 million in 2002, \$8.5 million in 2003, and \$9.6 million in 2004. Officials assume the actual loss of revenues of in kind services, and other requirements is unknown. Officials also stated they would have new costs from arbitration and litigation expenses.

Officials of the **City of Hannibal** assume there would be a loss of revenue due to the loss of franchise fees. Officials estimate the loss of revenue at approximately \$10,000,000 annually.

Officials of the **City of Creve Coeur** stated their city would be deprived of revenue from the loss of franchise fees. Officials estimate the loss at \$2,740,000 in 2002, \$2,822,000 in 2003, and \$2,907,000 in 2004.

Officials of the **City of Nevada** stated that this proposal would deprive the city of \$593,099 annually.

Officials of the **City of Maryland Heights** would lose revenues from the loss of license and franchise fees in an amount of \$1.5 million over a three year period.

Officials of the **City of Independence** assume they would have new cost from arbitration and legal fees. Officials estimate they would have an annual loss of revenue of \$165,885 from franchise fees.

Officials of the **St.Louis Metropolitan Sewer District** assume no fiscal impact

**Oversight will show loss of revenue to local government, and increased cost of street maintenance, etc. as (unknown).**

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<u>Income</u> to Cities from Permit Fees	Unknown	Unknown	Unknown
<u>Loss of income</u> to Cities from Franchise Fees	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> to Cities from Arbitration fees, street repairs etc.	(Unknown)	(Unknown)	(Unknown)
<b>Estimated Net Effect to Local Government*</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

**\* Oversight assumes that, on a statewide basis, the fiscal impact to local governments would exceed \$1,000,000 annually. Income from permit fees is not expected to offset costs or loss of income, therefore Net Effect is shown as (Unknown).**

FISCAL IMPACT - Small Business

Small business in the excavation business would be expected to pay a permit fee when excavating on municipal rights-of-way.

## DESCRIPTION

This bill outlines excavation and permitting procedures for public utility right-of-way users. Political subdivisions may by ordinance require public utility right-of-way users to obtain excavation permits and to submit plans for anticipated construction projects requiring excavation in the public right-of-way. After excavation, a right-of-way user must restore the right-of-way to its prior condition.

Right-of-way permits may be denied or revoked for certain reasons; a review process of denied or revoked permits by the governing body of the political subdivision is provided. Right-of-way permit fees must reflect the actual costs of managing the public right-of-way and be allocated among all users in a nondiscriminatory manner. Political subdivisions must not unlawfully discriminate among users of the right-of-way, grant preference to any right-of-way user over another, or create unreasonable requirements for access to the right-of-way.

Political subdivisions are prohibited from collecting a right-of-way fee through the provision of in-kind services by a public utility right-of-way user. The public utility right-of-way user is responsible for all acts or omissions of contractors or subcontractors used for excavating in the public right-of-way. Political subdivisions may require public utilities to obtain right-of-way permits prior to any excavation or work performed within the public right-of-way after August 28, 2001. Nothing in the bill relieves a political subdivision of any obligations under an existing franchise.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

## SOURCES OF INFORMATION

Department of Economic Development- Public Service Commission  
Office of Public Counsel  
Department of Natural Resources  
Missouri Department of Transportation  
Missouri Department of Conservation  
Office of Administration- Division of Design and Construction  
City of Kansas City  
City of St.Louis  
City of Springfield  
City of Hannibal

## SOURCES OF INFORMATION (continued)

WB:LR:OD (12/00)

L.R. No. 1277  
Bill No. HB 472  
Page 6 of 6  
February 21, 2001

City of Creve Coeur  
City of Nevada  
City Maryland Heights  
City Independence  
St. Louis Metropolitan Sewer District

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA  
Director  
February 21, 2001